

**TENNESSEE BOARD OF PHARMACY
JANUARY 15 - 16, 2002
ROOM 160 - DAVY CROCKETT TOWER
NASHVILLE, TENNESSEE**

BOARD MEMBERS PRESENT:

Alan Corley, President
Forrest Parmley, Vice President
Barbara McAndrew, Public Member
Robert Shutt, Member
Reggie Dilliard, Member
Paula Hinson, Member

STAFF PRESENT:

Kendall Lynch, Director
Cecil Ross, Legal Counsel
Martha Agee, Board Administrator
John Beauregard, Pharmacist Investigator
Terrence Cannada, Pharmacist Investigator
Harry Fuqua, Pharmacist Investigator
Richard Hadden, Pharmacist Investigator
Ralph Staton, Pharmacist Investigator

The Tennessee Board of Pharmacy convened on Tuesday, January 15, 2002, in Room 160 of the Davy Crockett Tower, 500 James Robertson Parkway, Nashville, Tennessee. A quorum of the members being present, the meeting was called to order at 9:00 a.m. CST by Dr. Alan Corley, President. Director Kendall Lynch advised that Dr. Julie Frazier will not be in attendance. Dr. Corley expressed appreciation to Dr. Paula Hinson for her tenure as president. The Board and office staff extend their sympathies to Mrs. Kay Revelle whose husband passed away on January 14, 2002.

Dr. Chip Forrester was a guest at the Tennessee Pharmacy Coalition.

RECIPROCAL EXAMINATION

The Jurisprudence Examination was administered to thirty-eight (38) applicants, beginning at 10:00 a.m. CST on Tuesday, January 15, 2002. The examination was administered by Pharmacy Board Investigators. All of the applicants successfully completed the examination, were interviewed by the Board and approved for licensure.

SCORE TRANSFER/NAPLEX JURISPRUDENCE EXAMINATION

The Jurisprudence Examination was administered to two (2) Score Transfer examinees, three

Tennessee Board of Pharmacy
January 15 - 16, 2002

(3) NAPLEX examinees, and one (1) reinstatement examinee in Room 640 of the Davy Crockett Tower at 10:00 a.m. CST on Tuesday, January 15, 2002. The examination was administered by the Pharmacy Board Investigators. All of the applicants successfully completed the Jurisprudence Examination.

APPROVAL OF THE MINUTES

The minutes of the **November 14 - 15, 2001** board meeting were presented and reviewed by the Board. Mrs. Barbara McAndrew motioned to **approve the minutes**; seconded by Dr. Robert Shutt. All were in favor and the motion carried.

COLLETTE FREEMAN, D. PH., #4530 - MODIFICATION OF CONSENT ORDER NASHVILLE, TN

Dr. Collette Freeman appeared before the Board along with advocates Drs. Cliff Weiss, Mike Matheny and Morris Haddox with the TPRN to request a modification of her consent order. Director Kendall Lynch advised the Board that in March, 1997, Dr. Freeman attended Charter Lakeside for chemical dependency. Dr. Freeman's license was reinstated in March, 1998 with five (5) years probation. In January, 2000 a urine screen supplied to the Tennessee Pharmacist Recovery Network (TRPN) tested positive for Benzodiazepines and advocacy was terminated. Dr. Freeman stated she took Xanax to get attention as she was not happy in her recovery. In March, 2000, Dr. Freeman signed a Consent Order to Revoke Probation and could seek reinstatement of her license after one (1) year. Dr. Weiss informed the Board that in March, Dr. Freeman agreed to have a substance abuse evaluation conducted at Talbott Recovery and stated she has been compliant with the TPRN contract.

Dr. Matheny and Dr. Haddox stated they advocated for Dr. Freeman. Dr. Abbie Howell, Dr. Rusty Shephard, Mr. Husky and Ms. Carol McClothin were in attendance to show their support. After board

discussion, Dr. Robert Shutt motioned:

1. Respondent does hereby agree to the reinstatement of license number 4530 with the following probationary conditions. Said probation shall remain in effect for a period of five (5) years:

(a) The Respondent shall completely abstain from the consumption of alcohol and controlled substances, except as prescribed by a duly licensed practitioner for a legitimate purpose.

(b) The Respondent shall consume no medications unless they are prescribed by her primary physician, Aubrey Lee Tucker, MD. The Respondent shall immediately notify the Board office of the name of her primary physician each time the Respondent changes primary physicians.

(c) The Respondent shall destroy any unused controlled substances prescribed under the provisions of subsection (b) no later than thirty (30) days following the completion of the prescribed course of treatment.

(d) The Respondent shall report to the Board, in writing, the ingestion of any and all legend drugs or controlled substances (a copy of the prescription will satisfy the requirement).

(e) The Respondent shall be subject to perpetual, random sampling of urine, blood or bodily tissues, at her own expense, by agents of the Board.

(f) Should any sampling indicate the presence of drugs for which the Respondent does not have a valid prescription, a show cause order will be issued to determine

why the probation and the Respondent's license should not be immediately revoked.

(g) The Respondent shall comply with all the terms and conditions of the extended aftercare contract she entered into with Tennessee Pharmacist Recovery Network. Respondent shall return a copy of said contract with this Consent Order to the Board office.

(h) The Respondent will not serve as pharmacist in charge for a period of three (3) years, however, after a period of two (2) years, may petition the Board for a modification of this Order to remove the restrictions upon a show of good cause.

(i) If the license has been inactive, delinquent, suspended or revoked:

② **One (1) year to not more than five (5) consecutive years**, the pharmacist shall:

1. Provide written notice requesting an active license.
2. Satisfy all past due continuing pharmaceutical education.
3. Successfully complete the jurisprudence examination.
4. Pay all cumulative license renewal fees and any applicable penalties.
5. Complete a period of pharmacy internship in Tennessee:

(i) From **one (1) year to not more than three (3) consecutive years, one hundred sixty (160) hours** within ninety (90) consecutive days.

Dr. Reggie Dilliard seconded the motion. All were in favor and the motion carried.

Director Kendall Lynch advised the Board that Drs. Morris Haddox and Mike Matheny participated

Tennessee Board of Pharmacy
January 15 - 16, 2002

in a drug court for first time offenders under presiding Judge Seth Norman of the Divisional Court, Criminal Court of Davidson County and are being recognized for their good work!

INTRODUCTION

Director Kendall Lynch introduced U.T. students, Ms. Stephanie Johnson, who is completing a TPA rotation and Ms. Jennifer Mosely, who is working with Dr. Todd Bess on managed care.

WAIVERS

ALISON S. LAMARRE, D. PH.
3100 Appaloosa Boulevard
Melbourne, FL 32934

Dr. Alison LaMarre is requesting a waiver of Rule 1140-5-.01 relevant to the ACPE “live” continuing education requirement, as she attends live programs presented by The Brevard County Pharmacy Association. Dr. Robert Shutt motioned to **approve** the waiver request; seconded by Mrs. Barbara McAndrew. All were in favor and the motion carried. President Alan Corley mentioned if the CE’s are accepted by other Boards, the Tennessee Board of Pharmacy would accept..

CHRIS TARZIERS, RN
ADMINISTRATOR OF HEALTH SERVICES
ALEXIAN BROTHERS
100 James Boulevard
Signal Mountain, TN 37377

Mr. Chris Tarziers is requesting a waiver of Rule 1140-3-.14 (12) relevant to the pharmacist in charge provision at two (2) locations. At present, Alexian Brothers is licensed as a nursing home facility and intends to license a small pharmacy at the Alexian Community Services Clinic. Dr. Paula Hinson motioned to **approve** the waiver; seconded by Dr. Reggie Dilliard. All were in favor and the motion carried. Dr. Alan Corley advised Dr. Lynch to inform Mr. Tarziers that the pharmacies shall not be

Tennessee Board of Pharmacy
January 15 - 16, 2002

open for business without the presence of a pharmacist.

CLARENCE W. SMITH, D. PH.
SMITH PHARMACY
100 West Third Street, Suite A
Cookeville, TN 38501

Dr. Clarence Smith is requesting a waiver of Rule 1140-3-.14 (12) pertaining to the pharmacist in charge provision at two (2) locations. Dr. Smith is currently the PIC at Smith Pharmacy and plans to open Larco Pharmacy to be used for aerosol medication. Dr. Robert Shutt motioned to **approve** the waiver request; seconded by Dr. Forrest Parmley. All were in favor and the motion carried. Dr. Alan Corley mentioned to remind Dr. Smith that the pharmacies shall not be open unless a pharmacist is present.

DAWN HAFER, D. PH.
BAKER BROTHERS DRUG CO.
120 East Main Street
Manchester, TN 37355

Dr. Dawn Hafer is requesting a waiver of the pharmacist in charge provision at two (2) locations under Rule 1140-3-.14 (12). Dr. Hafer is currently the PIC at Baker Brothers Drug and would like to be the PIC at a small non-public respiratory at home pharmacy. Dr. Paula Hinson motioned to **approve** the waiver; seconded by Mrs. Barbara McAndrew. All were in favor and the motion carried. Dr. Alan Corley stated to reiterate that the pharmacies shall not be open unless a licensed pharmacist is present.

RODNEY A. MCCORMICK, PHARM. D.
P & P PRESCRIPTION SHOP, INC.
811 West Main Street
Hendersonville, TN 37075

Dr. Rodney McCormick is requesting a waiver of Board of Pharmacy Rule 1140-3-.14 (12) relevant

Tennessee Board of Pharmacy
January 15 - 16, 2002

to the pharmacist in charge provision for two (2) locations. Dr. McCormick is the PIC at P & P Prescription Shop which also operates as a compounding pharmacy. Dr. Robert Shutt motioned to **approve** the waiver; seconded by Dr. Paula Hinson. All were in favor and the motion carried.

WILLIAM T. WHITE, D. PH.
SOUTHERN DRUG RESEARCH
1222 14th Avenue South
Suite 301
Birmingham, AL 35205

Director Kendall Lynch advised the Board that Dr. William White is requesting a waiver of Rule 1140-1-.07 (3) relevant to the NAPLEX. Dr. White thought his license was in inactive status when he relocated to Alabama but actually was in expired status. Since his license was in expired status, Dr. White did not receive the inactive letter which would have allowed him to bring his license to active status during the rule changes implemented in July, 1998. Dr. White has held a position on the faculty at Samford University School of Pharmacy since 1979 and has maintained an active license in good standing in Alabama for some time. Dr. Reggie Dilliard motioned to **approve** the waiver; seconded by Dr. Forrest Parmley. All were in favor and the motion carried.

SANDY PATRICK, D. PH.
MEDNOVATIONS, INC.
7319 Hanover Parkway, St. D
Greenbelt, MD 20770

Dr. Sandy Patrick is requesting a waiver of Rule 1140-1-.08 (8) relevant to a licensed pharmacy

Tennessee Board of Pharmacy
January 15 - 16, 2002

employing a pharmacist-in-charge who is licensed in Tennessee. Legal counsel advised that the Board of Pharmacy **rule does not allow for a waiver** of this type.

CONSENT ORDERS

#200100751

DOUGLAS R. CAMPBELL, D. PH.

195 Saffles Lane
Madisonville, TN 37354

Legal counsel, Cecil Ross, presented the Consent Order whereas Dr. Douglas Campbell was working on an expired license and assessed a civil penalty of \$1,000. Dr. Robert Shutt motioned to **accept** the Consent Order; seconded by Dr. Paula Hinson. All were in favor and the motion carried.

#200206702

MICHAEL DECHRISTOFARO, D. PH.

568 Milo Webb Drive
Crossville, TN 38555

Cecil Ross, legal counsel, presented the Consent Order whereas Dr. Michael DeChristofaro surrendered his license due to chemical dependency. Dr. Paula Hinson motioned to **accept** the Consent Order; seconded by Dr. Forrest Parmley. All were in favor and the motion carried.

#200206703

TAMMIE LOWERY HALE, D. PH.

1229 Duane Road
Chattanooga, TN 37405

Cecil Ross, legal counsel, presented the Consent Order for Dr. Tammie L. Hale whereas she voluntarily surrendered her license due to chemical dependency. Dr. Paula Hinson motioned to **accept**

Tennessee Board of Pharmacy
January 15 - 16, 2002

the Consent Order; seconded by Dr. Reggie Dilliard. All were in favor and the motion carried.

R. HOWE IRWIN, D. PH.

303 North 25th Street
LaFollette, TN 37766

A Consent Order for Reinstatement of Dr. Howe Irwin's license was presented by legal counsel, Cecil

Ross. Mrs. Barbara McAndrew motioned to **accept** the Consent Order; seconded by Dr. Robert Shutt.

All were in favor and the motion carried.

#200104616

MARSHALL V. JONES, JR., D. PH.

1551 Canadaville Loop
Eads, TN 38028

Legal counsel, Cecil Ross, presented the Consent Order whereas an inspector observed no licensed pharmacist on duty while the pharmacy was open and attended by a non-pharmacist office manager who had obtained access to the keys of the pharmacy. A civil penalty of \$500 was assessed. Dr.

Paula Hinson motioned to **accept** the Consent Order; seconded by Dr. Reggie Dilliard. All were in favor and the motion carried.

#200104617

JOE LAVENUE, D. PH.

109 North Main Street
Ridgely, TN 38080

Cecil Ross, legal counsel for the Board, presented a Consent Order whereas the inspector observed no licensed pharmacist on duty, with the pharmacy open and attended by two (2) pharmacy technicians. A civil penalty of \$250 was assessed. Dr. Paula Hinson motioned to **accept** the Consent

Tennessee Board of Pharmacy
January 15 - 16, 2002

Order; seconded by Dr. Robert Shutt. All were in favor and the motion carried.

C. CRAIG LINER, D. PH.

3630 Steeplechase Lane
Cleveland, TN 37323

Legal counsel, Cecil Ross presented the Modified Consent Order for Reinstatement to extend the probation period for one (1) year due to Dr. Craig Liner not complying with the original terms of his Consent Order for not reporting his prescriptions to the Board. Dr. Robert Shutt motioned to **accept** the Modified Consent Order for Reinstatement; seconded by Dr. Paula Hinson. All were in favor and the motion carried.

#200206704

KAREN MICHELLE LONG, D. PH.

#3 Polk Circle
Ft. Oglethorpe, GA 30742

A Consent Order for surrender of license due to chemical dependency for Dr. Karen Long was presented by legal counsel, Cecil Ross. Mrs. Barbara McAndrew motioned to **accept** the Consent Order; seconded by Dr. Forrest Parmley. All were in favor and the motion carried.

#200103722

LESLIE J. MONTEITH, D. PH.

1718 Rosewood Avenue
Nashville, TN 37212

A Consent Order was presented by legal counsel, Cecil Ross, whereas Dr. Leslie Monteith was noticed working on an expired license during a routine periodic inspection of the pharmacy. A civil penalty of \$200 was assessed. Dr. Robert Shutt motioned to **accept** the Consent Order; seconded by

Tennessee Board of Pharmacy
January 15 - 16, 2002

Dr. Paula Hinson. All were in favor and the motion carried.

#200102310

THE MOUNTAIN PHARMACY

1455 Parkway East
Gatlinburg, TN 37738

Cecil Ross, legal counsel, presented the Consent Order whereas The Mountain Pharmacy was found to be in violation of Board of Pharmacy Rule 1140-1-.12 (1) relevant to unsanitary conditions during a routine periodic inspection. A civil penalty of \$1,000 was assessed. Dr. Forrest Parmley motioned to **accept** the Consent Order; seconded by Dr. Paula Hinson. All were in favor and the motion carried.

DIRECTOR'S REPORT

AD HOC RULES COMMITTEE APPOINTMENT

Director Kendall Lynch asked President Alan Corley to appoint an ad hoc rules committee for the purpose of the annual review of the rules pursuant to departmental policy for fiscal year beginning July, 2002. Dr. Alan Corley appointed Dr. Forrest Parmley and Dr. Reggie Dilliard to the ad hoc rules committee.

MULTI-STATE PHARMACY JURISPRUDENCE EXAM (MPJE)

Director Kendall Lynch advised that the Board of Pharmacy is in the process of preparing a contract for the implementation of the MPJE. The targeted date established is January, 2003 as a review of approximately 3,000 questions to determine applicability to Tennessee laws is required. This is a no cost contract.

NABP NEWSLETTER CONTRACT

Tennessee Board of Pharmacy
January 15 - 16, 2002

The National Association of Boards of Pharmacy newsletter contract is presently being processed through the proper channels and may allow publication of one (1) newsletter for the fiscal year.

CONTINUING EDUCATION AUDIT

Director Kendall Lynch informed the board that the December 2001 renewals were the first month for pharmacists to complete the affidavit on the reverse side. The office mailed approximately forty letters to randomly selected pharmacists requesting copies of the continuing education documents reflected on the affidavit. Should the office not receive a response, a second letter will be mailed certified. Appropriate disciplinary action will be taken should the affidavit be falsified.

GUIDELINES FOR EMERGENCY KITS IN LTC FACILITIES

Director Lynch advised that the placement of emergency kits containing controlled substances in Long Term Care Facilities (LTCF) not registered with the DEA will be deemed in compliance with the Comprehensive Drug Abuse Prevention and Control Act of 1970.

Dr. Alan Corley appointed Dr. Julie Frazier to act as a liaison between agencies for the Board of Pharmacy and will report the findings to the Board of Pharmacy. The Board will consider appropriate action, if deemed necessary.

NABP - FLORIDA PHARMACISTS LICENSURE TRANSFER TO TENNESSEE

The Florida Board of Pharmacy has decided to accept reciprocals from other states. In order to be eligible for licensure, endorsement applicants must have obtained a passing score on the NABPLEX®/NAPLEX®, not more than twelve (12) years prior to filing the Florida application. Legal counsel, Cecil Ross, advised that this would not be consistent with Rule 1140-1-.03 (4) since Florida denied reciprocity to a significant number of pharmacists. Therefore, a rule change would be

required. Dr. Alan Corley stated the Board may consider a change and the matter is being referred to the Ad Hoc Rules Committee.

USE OF THE WORD “PHARMACIST” FOR BUSINESS PURPOSES

Director Kendall Lynch received an inquiry relevant to a non-pharmacist using the word “pharmacist” in a business name who will be selling herbal products. Director Lynch referred the individual to the statute. Legal counsel, Cecil Ross, stated the Board could not prosecute the business but the individual could possibly be prosecuted.

PHARMACIST IMMUNIZATIONS POLICY

The Tennessee Board of Pharmacy adopts the following recommended guidelines as policy for those pharmacists wishing to administer immunizations.

1. *Possess a current Tennessee Pharmacist License.*
2. Complete an immunization training program. A comprehensive certificate training program is preferred.
3. Develop an emergency plan protocol to deal with emergencies when giving immunizations. For example: Have a written plan that alerts a local physician or emergency center that you will be offering immunizations and notifies them of the particular date(s) and time(s) that you will be offering the service.
4. *Hold a current Basic Cardiac Life Support (BCLS) or Cardiopulmonary Resuscitation (CPR) certification at a minimum.*

All pharmacist administered injections require a valid medical or prescription order from an authorized prescriber.

Dr. Robert Shutt motioned to **accept the recommended guidelines**; seconded by Dr. Reggie Dilliard.

All were in favor and the motion carried.

2002 UPDATE SEMINARS

Director Kendall Lynch informed the Board that travel requests will be submitted for the updates, however, approval may not be granted. Topics for discussion include: repackaging; Florida reciprocity issue; safety commission - to ensure child resistant closures are being utilized; controlled substance destruction, nurse practitioners and physician assistants.

DISCIPLINARY ACTIONS REPORTED BY THE DEPARTMENT OF COMMERCE AND INSURANCE

The Director was advised that the Department of Commerce and Insurance will start publishing disciplinary actions each month. Dr. Lynch suggested that this information be eliminated from the newsletter as it is currently being reported to Healthcare Integrity and Protection Data Bank (HIPDA), Human and Health Services (HHS), Tennessee's Health Care Right To Know Act, and NABP's Clearinghouse. No action was taken.

JANET HARTMAN, D. PH. #5637 - REQUEST FOR REINSTATEMENT OF LICENSE GREENEVILLE, TN

Dr. Janet Hartman appeared before the board to request reinstatement of her pharmacist license along with advocate, Dr. Kirk Jones with TRPN. Director Kendall Lynch informed the Board that in April, 1995, Dr. Hartman entered Talbott Recovery for chemical dependency. In September, 1995, returned to work as a pharmacist and was placed on five (5) year's probation. In December, 1996, a urine screen tested positive and Dr. Hartman returned to treatment at Talbott in April, 1997. Dr. Hartman left treatment against the doctor's advice and subsequently voluntarily surrendered her license in June, 1997. Dr. Kirk Jones stated he has known Dr. Hartman since 1996 and in March, 2001, she signed a voluntary contract with TPRN which consisted of Caduceus, twelve step program, AA/NA meetings and urine screens. After Board discussion, Dr. Paula Hinson motioned:

1. Respondent does hereby agree to the reinstatement of license number 5637 with the following probationary conditions. Said probation shall remain in effect for a period of five (5) years:

(a) The Respondent shall completely abstain from the consumption of alcohol and controlled substances, except as prescribed by a duly licensed practitioner for a legitimate purpose.

(b) The Respondent shall consume no medications unless they are prescribed by her primary physician, Mike Hartsell, MD. The Respondent shall immediately notify the Board office of the name of her primary physician each time the Respondent changes primary physicians.

(c) The Respondent shall destroy any unused controlled substances prescribed under the provisions of subsection (b) no later than thirty (30) days following the completion of the prescribed course of treatment.

(d) The Respondent shall report to the Board, in writing, the ingestion of any and all legend drugs or controlled substances (a copy of the prescription will satisfy the requirement).

(e) The Respondent shall be subject to perpetual, random sampling of urine, blood or bodily tissues, at her own expense, by agents of the Board.

(f) Should any sampling indicate the presence of drugs for which the Respondent does not have a valid prescription, a show cause order will be issued to determine

why the probation and the Respondent's license should not be immediately revoked.

(g) The Respondent shall comply with all the terms and conditions of the extended aftercare contract she entered into with Tennessee Pharmacists Recovery Network. Respondent shall return a copy of said contract with this Consent Order to the Board office.

(h) The Respondent will not serve as pharmacist in charge for a period of three (3) years, however, after a period of two (2) years, may petition the Board for a modification of this Order to remove the restrictions upon a show of good cause.

(i) If the license has been inactive, delinquent, suspended or revoked:

② One (1) year to not more than five (5) consecutive years, the

pharmacist shall:

1. Provide written notice requesting an active license.
2. Satisfy all past due continuing pharmaceutical education.
3. Successfully complete the jurisprudence examination.
4. Pay all cumulative license renewal fees and any applicable penalties.
5. Complete a period of pharmacy internship in Tennessee:

(ii) For **more than three (3) consecutive years but not more**

than five (5) consecutive years, three hundred twenty (320)

hours within one hundred eighty (180) consecutive days.

Dr. Robert Shutt seconded the motion. All were in favor and the motion carried. The Board stated the internship hours acquired while working as a technician may be counted.

**JEFFREY A. CASEY, #4370 - REQUEST FOR REINSTATEMENT OF LICENSE
CHATTANOOGA, TN**

Dr. Jeffrey Casey appeared before the Board along with advocate Dr. Don Jones with TPRN to request reinstatement of his pharmacist license. Dr. Casey surrendered his license on June 7, 2001 due to chemical dependency. Dr. Casey spent six (6) months at Talbott in Atlanta. Dr. Casey's network support group is in place and has been attending AA meetings every day since April 7, 2001.

Advocate, Dr. Don Jones informed the Board that Dr. Casey had completed 90/90 and has signed a contract with TRPN. Dr. Paula Hinson recused herself. After board discussion, Dr. Forrest Parmley motioned to:

1. Respondent does hereby agree to the reinstatement of license number 4370 with the following probationary conditions. Said probation shall remain in effect for a period of five (5) years:

(a) The Respondent shall completely abstain from the consumption of alcohol and controlled substances, except as prescribed by a duly licensed practitioner for a legitimate purpose.

(b) The Respondent shall consume no medications unless they are prescribed by his primary physician, Joe Bradley, MD. The Respondent shall immediately notify the Board office of the name of his primary physician each time the Respondent changes primary physicians.

(c) The Respondent shall destroy any unused controlled substances prescribed under the provisions of subsection (b) no later than thirty (30) days following the completion of the prescribed course of treatment.

(d) The Respondent shall report to the Board, in writing, the ingestion

of any and all legend drugs or controlled substances (a copy of the prescription will satisfy the requirement).

(e) The Respondent shall be subject to perpetual, random sampling of urine, blood or bodily tissues, at his own expense, by agents of the Board.

(f) Should any sampling indicate the presence of drugs for which the Respondent does not have a valid prescription, a show cause order will be issued to determine why the probation and the Respondent's license should not be immediately revoked.

(g) The Respondent shall comply with all the terms and conditions of the extended aftercare contract he entered into with Tennessee Pharmacists Recovery Network. Respondent shall return a copy of said contract with this Consent Order to the Board office.

(h) The Respondent will not serve as pharmacist in charge for a period of three (3) years, however, after a period of two (2) years, may petition the Board for a modification of this Order to remove the restrictions upon a show of good cause.

(i) If the license has been inactive, delinquent, suspended or revoked:

① **Less than one (1) year**, the pharmacist shall:

1. Provide written notice requesting an active license.
2. Satisfy all past due continuing pharmaceutical education.
3. Pay all cumulative license renewal fees and any applicable penalties.

Dr. Robert Shutt seconded the motion. Dr. Paula Hinson herself. The motion carried.

LEGAL REPORT/COMPLAINTS

OLD COMPLAINTS

1) L00-PHR-RBS-200103444

Considered at the November 2001 board meeting. Three (3) certified techs and one (1) non-certified employee were observed by an inspector working under the supervision of only one DPH. Board voted civil penalties of \$500 for the store and \$100 for the DPH. The DPH sent in his check under protest, stating that he had reported the staffing problem to his superiors many times to no avail. Staff counsel agreed to place the matter before the Board for reconsideration, in the meantime, sending the DPH his check.

Recommendation: Rescind the civil penalty against the DPH.

Dr. Robert Shutt motioned to **accept counsel's recommendation**; seconded by Dr. Paula Hinson. The **civil penalty assessed the pharmacy will stand**. All were in favor and the motion carried.

2) L01-PHR-RBS-200102310

Brought before the Board for reconsideration at the November 2001 meeting after the unsanitary conditions previously noted were observed again. The Board summoned the DPH to an informal conference at this meeting unless an inspector reports marked improvement of the conditions. Our inspector has visited the store and found that the conditions have been alleviated; therefore the **informal conference is cancelled**.

NEW COMPLAINTS

1) L01-PHR-RBS-200005953

Referred from the Department of Health. A certain MD prescribed medication to be administered via interthecal pump to eight different patients. These Rx's were filled by the same pharmacy from an aliquot solution of Morphine Sulfate 50 mg/ml compounded on June 18, 2000. Three of the patients experienced no problems. Patient #4 complained that the medicine was not effective. Patient #5 reported back pain for three days, weakness and a fall, and pain in his lower back.. Patient #6 reported fever, decreased mental acuity, and urinary retention. (These problems continued after the pump was refilled from the same solution). Patient #7 complained of fever, chills, pain along his spine and numbness in his thigh. Patient # 8 reported a change in mental alertness, and a high fever. Patients 5, 6 and 8 were hospitalized. Patient # 5's prognosis is considered "guarded". Patient # 8 continues to suffer debilitating pain.

After the problems surfaced, informal testing of the solution revealed the presence of methadone and ETOH in the morphine solution. There was no methadone remaining in stock at the pharmacy, and 49.6 gms were unaccounted for. Our investigator obtained aliquots from June 18 and submitted them

to the TBI for testing. They tested positive for methadone and morphine. Aliquots from other dates tested positive only for morphine. It is apparent that the methadone was mixed into this morphine solution by mistake, which the pharmacist basically admits (though he does not admit adding the ETOH). The error may have occurred because the DPH was preparing three solutions for this MD at the same time. The pharmacy discontinued this practice. It has since closed. There was some evidence of poor technique in sterile product preparation.

Previous complaints: None, for either DPH or store.

Recommendation: Store: Closed; no apparent penalty possible.

DPH: Letter of Reprimand. Suspension of license for one year, with all but three months stayed pending good behavior. Require DPH to undergo additional training in sterile product preparation.

Dr. Paula Hinson recused herself. Dr. Robert Shutt motioned to **accept counsel's recommendation**; seconded by Mrs. Barbara McAndrew. The motion carried.

2) L01-PHR-RBS-200100839

The complaint, filed by a technician at an institutional pharmacy, alleges that there have been consistent manpower shortages and staffing problems, that controlled substances have been missing, that med carts were not checked or filled daily, and that medication was not properly stored. The investigator found no evidence to support any of these charges except for some minor shortages, which ceased after a technician was dismissed.

Previous complaints: None against either DPH or pharmacy.

Recommendation: Dismiss.

Dr. Robert Shutt motioned to **dismiss** the complaint; seconded by Dr. Reggie Dilliard. All were in favor and the motion carried.

3) L01-PHR-RBS-200102361

A veterinarian prescribed medicine for a human patient. These Rx's were filled at two different pharmacies (12 at Pharmacy A, 3 at Pharmacy B). Pharmacists involved were:

DPH 1— Employed at Pharmacy A. Admitted that he knew the prescriber was a vet, but stated that he filled Rx's because of his familiarity with the vet and because he felt pity for the patient, whom

he believed too poor to see a physician. The Rx's were billed to her insurance company. They included Rx's for Stadol NS, a schedule-III controlled substance, (two new Rx's, two refills) and Alprazolam, a schedule IV controlled substance one new, one refill). He admits that he used "poor judgment."

DPH 2— Employed at Pharmacy A. Refilled three Rx's for Stadol and three for Alprazolam. Says that he didn't know the prescriber was a vet "until recently."

DPH 3— The PIC at Pharmacy B. He knew the prescriber was a vet and yet filled an initial Rx for Stadol once, saying that he did so because another pharmacy was out of the drug. He said he exchanged angry words with the prescriber when he learned that the Rx had later been refilled.

DPH 4 & 5-- Employed as relief pharmacists at Pharmacy B. Apparently neither of them knew that the prescriber was a vet. Each did one refill for Stadol.

Previous violations: Pharmacy A--None
DPH 1--One previous
DPH 2--None
Pharmacy B--None
DPH 3--None
DPH 4--None
DPH 5--None

Recommendation: Stores: All monies paid by the insurance company must be refunded since the Rx's were invalid.

DPH 1--Consent order for \$600 (\$100 per violation); Suspension of license for one year, stayed during good behavior except for seven (7) days.

DPH 2--Letter of Warning

DPH 3--Consent order for \$100; suspension of license for two months, stayed during good behavior.

DPH 4--Letter of Warning

DPH 5--Letter of Warning

Prescriber should be reported to the Veterinary Board.

Dr. Reggie Dilliard motioned to **accept counsel's recommendation**; seconded by Dr. Julie Frazier. All were in favor and the motion carried.

4) L01-PHR-RBS-200104177

In September 2001 it was reported that respondent had been working on an expired license. He did not respond to the Board's notice. On November 8, 2001, he entered a plea of guilty to a felony (aggravated sexual battery) and was sentenced to two years' probation. He did not report the conviction to the Board as required by the rules.

Previous complaints: DPH: UNK

Recommendation: Formal hearing to seek revocation.

Dr. Paula Hinson motioned to **accept counsel's recommendation** for a formal hearing to seek revocation; seconded by Dr. Reggie Dilliard. All were in favor and the motion carried.

5) L01-PHR-RBS-200104850

Complainant alleges that she ordered three (3) Rx's for her mother from this pharmacy and the pharmacy sent five (5), including one for Alprazolam, which her mother was not supposed to be taking. The DPH says that the mother called in those Rx's and that the complainant took them away from her, whereupon the mother called and complained that she had never received them. (The mother has been under treatment for dementia). Apparently after the MD was advised of these problems, he decided against refilling the Alprazolam.

Previous complaints: DPH: None

Store: Two (one misfill; one dismissed).

Recommendation: Dismiss.

Dr. Reggie Dilliard motioned to **dismiss**; seconded by Dr. Paula Hinson. All were in favor and the motion carried.

6) L01-PHR-RBS-200104918

Complainant, an MD, alleges that this DPH refused to fill a Rx for Paxil 20mg for a minor child; it is alleged that the DPH told the child's mother that this was not an appropriate Rx for a child and that "this doctor doesn't know what he's doing." The DPH says only that because of the child's age he wanted to check with the MD before filling the Rx. He denies disparaging the doctor.

Previous complaints: One for DPH; none for store.

Recommendation: Dismiss.

Dr. Reggie Dilliard motioned to **dismiss**; seconded by Dr. Paula Hinson. All were in favor and the motion carried.

7) L01-PHR-RBS-200105305

Complainant, a pharmacist formerly employed by the respondent store, alleged that on two occasions a certain technician dispensed Rx's without the approval of a pharmacist. The tech says that on the first occasion she showed the Rx's to the complainant, who then said "OK, I'm going to lunch," or words to that effect, which she took as an expression of approval. On the second occasion the tech says she also showed the Rx to the complainant, who said "OK", which she took as an expression of approval. However, on the first occasion there was obviously no counseling, since she dispensed a new Rx without a pharmacist present.

Previous complaints: None, for either store or PIC

Recommendation: \$100 for PIC (as responsible for the tech's error).
\$500 for store.

Dr. Robert Shutt motioned to issue a **Letter of Instruction to the PIC**; seconded by Dr. Reggie Dilliard. All were in favor and the motion carried.

8) L01-PHR-RBS-200105438

Referred to us by the Investigations and Audit Dept. of TennCare. Complainant, the mother of a minor child, alleges that this pharmacy twice refilled a Rx for nystatin ointment for the child without authorization from an MD. The investigator spoke to the MD and was told that all Rx's and refills were authorized. One of the two pharmacists involved admits that on one of the refills she lacked appropriate documentation, which she attributed to the installation of some new software.

Previous complaints: None for either of the DPHs, or for the store.

Recommendation: Letter of Instruction to DPH 2.

Mrs. Barbara McAndrew motioned to **accept counsel's recommendation**; seconded by Dr. Robert Shutt. All were in favor and the motion carried.

9) L01-PHR-RBS-200105499

Complainant alleges that the pharmacy misfilled his Rx for Altace with Norvasc. The pharmacist admits the error occurred, but offers no explanation for the error. Complainant says he took one tablet

Tennessee Board of Pharmacy
January 15 - 16, 2002

of the Norvasc with no apparent ill effects. The complainant also believed that the pharmacy substituted a generic drug for the higher-priced one and charged him the higher price anyway. There is no evidence that this occurred. Complainant's money was refunded and he was given the correct medication free of charge.

Previous complaints: None for either DPH or store.

Recommendation: Letter of Instruction to PIC.

Dr. Robert Shutt motioned to **accept counsel's recommendation**; seconded by Dr. Paula Hinson. All were in favor and the motion carried.

10) L01-PHR-RBS-200105501

Complaint was submitted by an insurance company which had received a claim from a patient who had received more than 1700 dosage units 50 mg tablets of Tramadol over a period of five months, which averages about 650-750mg per day. The maximum recommended manufacturers dosage is 400 mg per day. The investigator checked the printouts and found written directions "1-2 tabs every four hours as needed". If followed, this would work out to 300-600 mg per day, which is consistent with the written instructions. There were, however, no pharmacists' notes or other documentation of counseling, drug utilization review, or contact with the prescriber.

Previous complaints: None, for the store or for either of two DPHs involved.

Recommendation: Letters of Instructions to the two (2) pharmacists on the need for documenting counseling and physician contact.

Dr. Paula Hinson motioned to **accept counsel's recommendation**; seconded by Dr. Julie Frazier. All were in favor and the motion carried.

ADJOURNMENT

President Alan Corley adjourned the Board of Pharmacy meeting at 4:25 p.m. CST on Tuesday, January 15, 2002.

RECONVENED

The Board of Pharmacy reconvened on Wednesday, January 16, 2002, at 9:05 a.m. CST in Room 160 of the Davy Crockett Tower. Dr. Alan Corley, president, called the meeting to order. All members

were present.

REPORT ON STATUS OF PHARMACY TECHNICIAN RULES

Legal counsel, Cecil Ross, stated the Board of Pharmacy does not have the authority to promulgate regulations for the technician training program sites pursuant to Tennessee Code Annotated §63-10-506 (f). Mr. Ross informed the Board that they could withdraw that portion of the rules pertaining to the technician training program sites and in the meantime change the statute to add pharmacy technician training program sites. Mr. Ross stated the Attorney General's Office has had the rules in their possession for six (6) months. Dr. Robert Shutt motioned to **accept counsel's recommendation**; seconded by Dr. Paula Hinson. All were in favor and the motion carried.

SCOTT BARZ, D. PH., #9332 - REQUEST FOR REINSTATEMENT OF LICENSE KNOXVILLE, TN

Dr. Scott Barz appeared before the Board to request reinstatement of his pharmacist license and was in attendance with Dr. Dewey Clark with TRPN and Mr. Eric Amburgey with Cornerstone. Director Lynch advised the Board that in January, 2000, Dr. Barz voluntarily surrendered his license due to chemical impairment. Dr. Barz sought treatment and his license was reinstated in July, 2000. In the fall of 2000, Dr. Barz relapsed and returned to Cornerstone. In May, 2001, Dr. Barz's license was revoked due to relapse. Dr. Clark stated he is compliant with the recommendation of the TPRN and feels comfortable advocating on his behalf. Mr. Eric Amburgey stated a more extensive treatment program is utilized for second admissions. Dr. Barz stated he thinks before acting and understands now that people are not always attacking him as the role of a pharmacist is to help people. After board discussion, Dr. Reggie Dilliard motioned to:

1. Respondent does hereby agree to the reinstatement of license number 9332 with the following probationary conditions. Said probation shall remain in effect for a period of five (5) years:

(a) The Respondent shall completely abstain from the consumption of alcohol and controlled substances, except as prescribed by a duly licensed practitioner for a legitimate purpose.

(b) The Respondent shall consume no medications unless they are prescribed by his primary physician, Gary O'Shaughnessy, MD. The Respondent shall immediately notify the Board office of the name of his primary physician each time the Respondent changes primary physicians.

(c) The Respondent shall destroy any unused controlled substances prescribed under the provisions of subsection (b) no later than thirty (30) days following the completion of the prescribed course of treatment.

(d) The Respondent shall report to the Board, in writing, the ingestion of any and all legend drugs or controlled substances (a copy of the prescription will satisfy the requirement).

(e) The Respondent shall be subject to perpetual, random sampling of urine, blood or bodily tissues, at his own expense, by agents of the Board.

(f) Should any sampling indicate the presence of drugs for which the Respondent does not have a valid prescription, a show cause order will be issued to determine why the probation and the Respondent's license should not be immediately revoked.

(g) The Respondent shall comply with all the terms and conditions of the extended aftercare contract he entered into with Tennessee Pharmacists Recovery Network. Respondent shall return a copy of said contract with this Consent Order to the Board office.

(h) The Respondent will not serve as pharmacist in charge for a period of three (3) years, however, after a period of two (2) years, may petition the Board for a modification of this Order to remove the restrictions upon a show of good cause.

(i) If the license has been inactive, delinquent, suspended or revoked:

① Less than one (1) year, the pharmacist shall:

1. Provide written notice requesting an active license.
2. Satisfy all past due continuing pharmaceutical education.
3. Pay all cumulative license renewal fees and any applicable penalties.

Dr. Robert Shutt seconded the motion. All were in favor and the motion carried.

#200207184

**MARK CALLIS, D. PH., #8230 - INFORMAL CONFERENCE
LOUISVILLE, TN**

Dr. Mark Callis appeared before the Board for an Informal Conference, along with advocate Dr. Dewey Clark with TPRN and Eric Amburgey with Cornerstone. Director Kendall Lynch informed the Board that in the fall of 2001, Dr. Callis advised Dr. Lynch that he was an alcoholic and had entered Cornerstone for treatment. Dr. Callis had also signed a voluntary contract with TRPN. Dr. Callis was not working and agreed not to renew his license, which expired December 31, 2001, until meeting with the Board. Dr. Callis was advised that no disciplinary action can be taken against his license without his consent. Dr. Callis acknowledged that he understood. Dr. Clark stated Dr. Callis had

signed a voluntary contract with TRPN to attend 90/90 after being discharged from treatment. Dr. Clark advised the Board that Dr. Callis had furnished urines to TRPN and was compliant with their recommendations. Mr. Eric Amburgey stated Dr. Callis has been compliant with the treatment facility at Cornerstone and feels he is doing well. After Board discussion, Dr. Paula Hinson motioned to:

1. Respondent does hereby agree to the reinstatement of license number 8230

with the following probationary conditions. Said probation shall remain in effect for a period of five (5) years:

(a) The Respondent shall completely abstain from the consumption of alcohol and controlled substances, except as prescribed by a duly licensed practitioner for a legitimate purpose.

(b) The Respondent shall consume no medications unless they are prescribed by his primary physician, William Robinson, III, MD. The Respondent shall immediately notify the Board office of the name of his primary physician each time the Respondent changes primary physicians.

(c) The Respondent shall destroy any unused controlled substances prescribed under the provisions of subsection (b) no later than thirty (30) days following the completion of the prescribed course of treatment.

(d) The Respondent shall report to the Board, in writing, the ingestion of any and all legend drugs or controlled substances (a copy of the prescription will satisfy the requirement).

(e) The Respondent shall be subject to perpetual, random sampling of

urine, blood or bodily tissues, at his own expense, by agents of the Board.

(f) Should any sampling indicate the presence of drugs or alcohol for which the Respondent does not have a valid prescription, a show cause order will be issued to determine why the probation and the Respondent's license should not be immediately revoked.

(g) The Respondent shall comply with all the terms and conditions of the extended aftercare contract he entered into with Tennessee Pharmacists Recovery Network.

Respondent shall return a copy of said contract with this Consent Order to the Board office.

(h) The Respondent will not serve as pharmacist in charge for a period of three (3) years, however, after a period of two (2) years, may petition the Board for a modification of this Order to remove the restrictions upon a show of good cause.

(i) If the license has been inactive, delinquent, suspended or revoked:

① Less than one (1) year, the pharmacist shall:

1. Provide written notice requesting an active license.
2. Satisfy all past due continuing pharmaceutical education.
3. Pay all cumulative license renewal fees and any applicable penalties.

Dr. Robert Shutt seconded the motion. All were in favor and the motion carried.

**GARY LUSTER, D. PH., #6232 - MODIFICATION OF CONSENT ORDER
CORDOVA, TN**

Dr. Gary Luster appeared before the Board to request a modification of his consent order and was in attendance with advocates, Drs. Steve Jones and Barry Williams of TPRN. Director Kendall Lynch stated in 1992, Dr. Luster was placed on two year's probation for impairment. In 1995, he relapsed

Tennessee Board of Pharmacy
January 15 - 16, 2002

and was placed on five (5) years' probation. In October, 1997, relapsed again and surrendered license. In September of 1998 Dr. Luster's license was reinstated with five (5) years probation. In June, 1999, Dr. Luster relapsed and was suspended from the practice of pharmacy until July 13-14, 2004. Dr. Luster stated his sobriety date is May 6, 2000. Dr. Steve Jones stated that in the last two (2) years, Dr. Luster had made a remarkable recovery. Dr. Barry Williams stated Dr. Luster did not sign a contract with TPRN as Dr. Williams wanted to see how sincere he was. Dr. John Beauregard also spoke on Dr. Luster's behalf. After board discussion, Dr. Robert Shutt motioned:

1. Respondent does hereby agree to the reinstatement of license number 6232

with the following probationary conditions. Said probation shall remain in effect for a period of ten (10) years:

(a) The Respondent shall completely abstain from the consumption of alcohol and controlled substances, except as prescribed by a duly licensed practitioner for a legitimate purpose.

(b) The Repondent shall consume no medications unless they are prescribed by his primary physician, Mike Knollner, MD. The Respondent shall immediately notify the Board office of the name of his primary physician each time the Respondent changes primary physicians.

(c) The Respondent shall destroy any unused controlled substances prescribed under the provisions of subsection (b) no later than thirty (30) days following the completion of the prescribed course of treatment.

(d) The Respondent shall report to the Board, in writing, the ingestion

of any and all legend drugs or controlled substances (a copy of the prescription will satisfy the requirement).

(e) The Respondent shall be subject to perpetual, random sampling of urine, blood or bodily tissues, at his own expense, by agents of the Board.

(f) Should any sampling indicate the presence of drugs for which the Respondent does not have a valid prescription, a show cause order will be issued to determine why the probation and the Respondent's license should not be immediately revoked.

(g) The Respondent shall comply with all the terms and conditions of the extended aftercare contract he entered into with Tennessee Pharmacists Recovery Network. Respondent shall return a copy of said contract with this Consent Order to the Board office.

(h) The Respondent will not serve as pharmacist in charge for a period of three (3) years, however, after a period of two (2) years, may petition the Board for a modification of this Order to remove the restrictions upon a show of good cause.

(i) If the license has been inactive, delinquent, suspended or revoked:

② One (1) year to not more than five (5) consecutive years, the pharmacist shall:

1. Provide written notice requesting an active license.
2. Satisfy all past due continuing pharmaceutical education.
3. Successfully complete the jurisprudence examination.
4. Pay all cumulative license renewal fees and any applicable penalties.
5. Complete a period of pharmacy internship in Tennessee:

- (i) From **one (1) year to not more than three (3) consecutive years, one hundred sixty (160) hours** within ninety (90) consecutive days.

Dr. Paula Hinson seconded the motion. All were in favor and the motion carried.

#200105822
PHARMACIST - VETERAN'S ADMINISTRATION
NASHVILLE, TN

Director Kendall Lynch advised the Board that a pharmacist has been indicted on federal charges for the diversion and sale of controlled substances. The pharmacist is willing to surrender her license and sign a Consent Order. Legal counsel, Cecil Ross will draft a Consent Order for revocation of her license. The Board had no objection to legal counsel preparing the Consent Order.

TENNESSEE PHARMACISTS RECOVERY NETWORK (TPRN)
URINE SCREENS

Director Kendall Lynch informed the Board that TPRN began utilizing the new urine screen program on January 1, 2001. The pharmacist, who is assigned a PIN number, contacts an 800 number everyday. The individual is given twenty-four (24) hours in which to donate urine and if the pharmacist does not call, it is reported to TPRN. The Board of Pharmacy will need to develop a contractual relationship with TPRN and the Board would like to supply some of the funding. Dr. Lynch was informed from the TBI that no urines for 2000 will be analyzed, due to their relocation to the new facility.

Tennessee Board of Pharmacy
January 15 - 16, 2002

**TPA MID-YEAR MEETING - FEBRUARY 11 - 12, 2002
NASHVILLE, TN**

Dr. Kendall Lynch advised the board members that travel requests will not be approved. Reservations have been made at the Sheraton and if you do not plan to attend, please cancel the reservation.

**MRS. BEATRICE PORTER
TENNESSEE BOARD OF PHARMACY EMPLOYEE**

Director Kendall Lynch acknowledged his appreciation to Mrs. Bea Porter for fifteen (15) years of service to the State of Tennessee. Mrs. Porter processes the pharmacy applications and reconciles the board's deposits.

ADJOURNMENT

Dr. Alan Corley adjourned the Board of Pharmacy meeting on Wednesday, January 16, 2002 at 12:25 p.m. CST.

Respectfully submitted,

Alan Corley, President

Kendall M. Lynch, Director